Seale contempt appeal expe

By William Granger

Will U.S. District Court Judge Julius J. Hoffman's contempt sentence for Bobby Seale stand up in higher courts on appeal?

Legal experts were unsure Wednesday in the light of a recent ruling dealing with contempt sentences handed down by the Supreme Court.

"I believe this case will set a precedent in view of the Supreme Court ruling," said Thomas P. Sullivan, a Chicago attorney who represented four lawyers held in contempt by Hoffman early in the trial of the Chicago Eight.

Jury trial an issue

Hoffman sentenced Seale Wednesday to four years in jail after finding Seale guilty of 16 incidents of contempt. He imposed three-month sentences for each incident, the sentences to run consecutively.

On May 20, 1968, the Supreme Court, in a 7-to-2 decision, ordered a new trial for Chicago lawyer S. Edward Bloom who had been convicted in a bench trial — also without a jury — of contempt. He was sentenced to two years in prison.

It had been a legal tradition before the Supreme Court's Bloom ruling that cases of contempt committed in the presence of the court would be decided by judges without juries — no matter how serious the contempt or how severe the resulting sentence.

But the Supreme Court in the Bloom case said: "Our deliberations have convinced us . . . that serious contempts are so nearly like other serious crimes that they are subject to the jury trial provisions of the Constitution. . . ."

This meant that in serious cases of contempt, the defendant has the right to a jury trial. All of the contempts cited by Hoffman were for actions in the courtroom.

Now this legal question pops up:

Seale got four years in prison. But technically he received 16 three-month sentences. A three-month sentence is not considered unusually severe. But which consideration will govern when the decision is appealed?

No one is sure.

Other views

Sullivan said, "In my opinion, you cannot get around the necessity for a jury trial by segmenting the sentence the way he (Hoffman) has. But I don't know of a case on the subject—this will set precedent."

Robert A. Burt, law professor at the University of Chicago, added: "In recent years, the Supreme Court has been tightening up on the situations in which a judge can just sentence someone from the bench. . . . It sounds like what Hoffman has done is carve up what is one big ball of wax to get around the sentencing limit."

Robert Burns, law professor at DePaul University, said: "Contempt of court cases frequently become basis for appeal but it is usually for lawyers, not defendants."

Longest sentence

Legal experts and observers said the total sentence meted out to Seale was the longest ever given for criminal — or direct courtroom — contempt in the District Court here.

Criminal or direct contempt carries with it a jail sentence for the purpose of punishment. This is distinguished from civil or indirect contempt, as when a court order is disobeyed, and the offender is imprisoned or fined until he complies.

Before Seale was sentenced, another court turned down a suit that sought to bar further gagging and shackling of Seale in the courtroom. Seale had been ordered gagged and bound by Hoffman after two courtroom scuffles and repeated verbal clashes.

In dismission of the suit filed by 25 lawyers from across the nation, U.S. District Court Judge Edwin A. Robson ruled: "While a defendant in a criminal case has an absolute right to be present, he does not have a right to brazenly make a shambles of the criminal judicial process and attempt to force a mistrial."

Hoffman, besides sentencing Seale for contempt, also declared a mistrial in his case, separating his case from that of the seven other defendants.

This mistrial ruling might be used by the other defendants in their appeals in case they are convicted, observers said.

Prof. Burns thought, "The severance (of Seale's case) at midtrial may not be enough to dissipate undo prejudice on the part of the jury to all the defendants."

Judge Hoffman's decisions Wednesday reflect similiar rulings made in 1949 by then U.S. District Court Judge Harold R. Medina in a New York conspiracy trial of 11 Communists.

Frequent outbursts by defendants and lawyers during

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the nine-month trial led Medina to impose midtrial contempt sentences.

He also levied contempt sentences at the end of the trial, ranging from 30 days to six months. His sentences, and the convictions, were upheld.

At the end of the trial, Judge Medina said:

"Let this be notice to you and all who may be tempted to follow your example that there is power under the Constitution and the laws of the United States to protect the dignity of the courts and the orderly administration of justice therein."

Seale cited for contempt, gets 4 years

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did in the period of slavery," Seale said.

Hoffman replied that Seale, who was sitting, would have to stand to address the court.

"You first said I couldn't," Seale answered. "I won't now. I'm suing you to see if it's possible to go anywhere in the courts of America."

Hoffman then found Seale guilty of the 16 acts of contempt and imposed a sentence of three months for each act, the sentences to run consecutively.

After Seale demanded an immediate trial, Hoffman set April 23 as the date. Legal observers said they did not believe the new trial date was unusually distant.

As the marshals led Seale away, his supporters in the courtroom rose and shouted:

"Right on!"

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